

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:15-cv-00453-FDW-DCK**

SELECTIVE INSURANCE COMPANY)
OF THE SOUTHEAST,)

Plaintiff,)

v.)

THE BERRY GROUP, LLC, and)
KENNETH BERRY,)

Defendants.)

ORDER

THIS MATTER is before the Court on the parties' "Joint Motion For Temporary Stay Of Proceedings" filed January 25, 2016. (Doc. No. 11). In the interests of justice, and for the reasons below, the Motion is **GRANTED WITH MODIFICATION**.

On June 30, 2014, Defendant The Berry Group filed a lawsuit against Steve J. Knier and Bonnie J. Knier in Transylvania County Superior Court, 14 CVS 33, entitled as "The Berry Group, LLC v. Steve J. Knier and Bonnie J. Knier" (the "underlying lawsuit"). (Doc. No. 11, ¶ 2). Defendants notified Plaintiff of the underlying lawsuit and requested a defense to third-party claims brought in that action under the terms of a commercial general liability insurance policy issued by Plaintiff to Defendants. See id. at ¶¶ 1-4. Plaintiff initially disclaimed coverage and filed the instant action seeking a Declaratory Judgement determining Plaintiff's obligations to defend and indemnify Defendants under the general insurance policy. Id. at ¶ 5.

While the parties resolved the dispute over Plaintiff's duty to defend, the dispute concerning indemnity obligations remains live. Id. at ¶¶ 6-7. The underlying lawsuit is scheduled for arbitration in May 2016. (Id. at ¶ 8. The parties filed the pending motion to stay anticipating

that arbitration of the underlying lawsuit will narrow the scope of the indemnity dispute before the Court. Id. The Court finds that the interests of justice and judicial economy would be best served by staying the instant litigation pending arbitration in the underlying suit.

IT IS THEREFORE ORDERED that the Joint Motion to Stay until September 12, 2016 (Doc. No. 11) is GRANTED.


IT IS FURTHER ORDERED that the parties notify the Court of the parties' selection of an arbitrator in the underlying lawsuit within thirty (30) days from the date of this Order.

IT IS FURTHER ORDERED that the parties submit to the Court a joint status update regarding the arbitration of the underlying suit within sixty (60) days from the date of this Order. Subsequent joint status reports are to be filed every sixty (60) days thereafter until expiration of this Order.

IT IS FURTHER ORDERED that this Order will expire on September 12, 2016. Any issues remaining before the Court at that time will proceed pursuant to the Case Management Order governing this matter.

IT IS SO ORDERED.

Signed: January 27, 2016


Frank D. Whitney
Chief United States District Judge

